

AMENDED IN SENATE MARCH 30, 2000

SENATE BILL

No. 1791

Introduced by Senator Rainey

February 23, 2000

An act to add Chapter 3 (commencing with Section 4260) to Part 2 of Division 9 of the Family Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

SB 1791, as amended, Rainey. Child support: administrative orders: state support registry.

Existing law provides for court-ordered child support and for the enforcement of child support obligations through the courts and through state and local agencies. An action to establish, modify, or enforce child support may be filed against a parent having a duty to provide support by the other parent, or by the child by a guardian ad litem. Actions also may be filed, as provided, by the local child support agency for a court order to establish, modify, or enforce child support.

This bill would authorize the ~~State Department of Social Child Support Services~~ to carry out specified powers and duties relating to child support. ~~The bill would create the office of child support enforcement within the department. The bill would create the state support registry within the office of child support enforcement.~~ The bill would authorize the Director of ~~Social Child Support Services~~ to hold adjudicative proceedings as specified for the purpose of determining liability for child support, and to issue and modify administrative orders establishing liability for child support

payments. The administrative order would be an alternative to court-ordered child support. The department would be authorized to take enforcement action for collection of child support obligations and to place liens on the property of a parent with a child support obligation. ~~The child support registry established by the bill~~ *department* would *also* be authorized to *designate an agency to* receive and distribute child support obligations in accordance with court orders and administrative orders. ~~Employers and governmental agencies would be required to report specified information to the state support registry on the earnings and property of persons having child support obligations.~~ The department would have *other* specified duties relating to enforcement of child support obligations.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3 (commencing with Section
2 4260) is added to Part 2 of Division 9 of the Family Code,
3 to read:

4
5 CHAPTER 3. ADMINISTRATIVE CHILD SUPPORT ORDERS
6 ~~AND STATE SUPPORT REGISTRY~~

7
8 Article 1. General Provisions
9

10 4260. Common law and statutory procedures
11 governing the remedies for enforcement of support for
12 financially dependent minor children by responsible
13 parents have not proven sufficiently effective or efficient
14 to cope with the increasing incidence of financial
15 dependency. The increasing workload of courts,

1 prosecuting attorneys, and the Attorney General has
 2 made these remedies uncertain, slow, and inadequate,
 3 thereby resulting in a growing burden on the financial
 4 resources of the state, which is constrained to provide
 5 public assistance grants for basic maintenance
 6 requirements when parents fail to meet their primary
 7 obligations. The State of California, therefore, exercising
 8 its police and sovereign power, declares that the common
 9 law and statutory remedies pertaining to family desertion
 10 and nonsupport of minor dependent children shall be
 11 augmented by additional remedies directed to the real
 12 and personal property resources of the responsible
 13 parents. In order to render resources more immediately
 14 available to meet the needs of minor children, it is the
 15 intent of the Legislature that the remedies provided in
 16 this chapter are in addition to, and not in lieu of, existing
 17 law. It is declared to be the public policy of this state that
 18 this chapter be construed and administered to the end
 19 that children shall be maintained from the resources of
 20 responsible parents, thereby relieving, at least in part, the
 21 burden presently borne by the general citizenry through
 22 welfare programs.

23 4261. Unless a different meaning is plainly required
 24 by the context, the following terms, as used in this
 25 chapter, shall have the following meanings:

26 (a) “Department” means the ~~State Department of~~
 27 ~~Social~~ *Department of Child Support Services*.

28 (b) “Director” means the Director of ~~Social~~ *the*
 29 *Department of Child Support Services*, or his or her
 30 designee or authorized representative.

31 (c) “Dependent child” means any of the following
 32 persons:

33 (1) Under the age of 18 years who is not
 34 self-supporting, married, or a member of the armed
 35 forces of the United States.

36 (2) Over the age of 18 years for whom a court order for
 37 support exists.

38 (d) “Support obligation” means the obligation to
 39 provide for the necessary care, support, and
 40 maintenance, including medical expenses, of a

1 dependent child or other person as required by statutes
2 and the common law of this or another state.

3 (e) “Superior court order” means any judgment,
4 decree, or order of the Superior Court of the State of
5 California, or a court of comparable jurisdiction of
6 another state, establishing the existence of a support
7 obligation and ordering payment of a set or determinable
8 amount of support moneys to satisfy the support
9 obligation. For purposes of Section 4266, orders for
10 ~~support that were entered under the uniform reciprocal~~
11 ~~enforcement of support act by a state where the support~~
12 ~~that were entered under the Uniform Reciprocal~~
13 ~~Enforcement of Support Act by a state in which the~~
14 responsible parent no longer resides shall not preclude
15 the department from establishing an amount to be paid
16 as current and future support.

17 (f) “Administrative order” means any determination,
18 finding, decree, or order for support pursuant to Section
19 4266, or by an agency of another state pursuant to a
20 substantially similar administrative process, establishing
21 the existence of a support obligation and ordering the
22 payment of a set or determinable amount of support
23 moneys to satisfy the support obligation.

24 (g) “Responsible parent” means a natural parent,
25 adoptive parent, or stepparent of a dependent child or a
26 person who has signed an affidavit acknowledging
27 paternity that has been filed with the state.

28 (h) “Stepparent” means the present spouse of the
29 person who is either the mother, father, or adoptive
30 parent of a dependent child, and that status shall exist
31 until terminated.

32 (i) “Support moneys” means any moneys or in-kind
33 provisions paid to satisfy a support obligation whether
34 denominated as child support, ~~spouse~~ *spousal* support,
35 alimony, maintenance, or any other moneys intended to
36 satisfy an obligation for support of any person or
37 satisfaction in whole or in part of arrears or delinquency
38 on that obligation.

39 (j) “Support debt” means any delinquent amount of
40 support moneys that is due, owing, and unpaid under a

1 superior court order or an administrative order, ~~a debt~~ for
2 the payment of expenses for the reasonable or necessary
3 care, support, and maintenance, including medical
4 expenses, of a dependent child or other person for whom
5 a support obligation is owed. Support debt also includes
6 any accrued interest, fees, or penalties charged on a
7 support debt, and attorneys' fees and other costs of
8 litigation awarded in an action to establish and enforce a
9 support obligation or debt.

10 (k) "State" means any state or political subdivision,
11 territory, or possession of the United States, the District
12 of Columbia, and the Commonwealth of Puerto Rico.

13 4262. (a) The department shall be subrogated to the
14 right of any dependent child or children or person having
15 the care, custody, and control of that child or children, if
16 public assistance money is paid to or for the benefit of the
17 child, to prosecute or maintain any support action or
18 execute any administrative remedy existing under the
19 laws of the state to obtain reimbursement of moneys
20 expended, based on the support obligation of the
21 responsible parent established by a superior court order
22 or Section 4266. Distribution of any support moneys shall
23 be made in accordance with Section 657 of Title 42 of the
24 United States Code.

25 (b) The department may initiate, continue, maintain,
26 or execute an action to establish, enforce, and collect a
27 support obligation, including establishing paternity and
28 performing related services, under this chapter or other
29 appropriate statutes or the common law of this state, for
30 as long as, and under the conditions that the department
31 may establish by regulation.

32 (c) Public assistance moneys shall be exempt from
33 collection action under this chapter except as otherwise
34 provided.

35 ~~4263. The department shall augment its present~~
36 ~~paternity establishment services through the hiring of~~
37 ~~additional attorneys or contracting with prosecutors or~~
38 ~~private attorneys licensed in the State of California in~~
39 ~~those counties experiencing delay or an accumulation of~~
40 ~~unserved paternity cases. The employment of private~~

~~attorneys shall be limited in scope to renewable six-month periods in counties where the prosecutor or the attorney general cannot provide adequate, cost-effective service. The department shall provide a written report of the circumstances requiring employment of private attorneys to the judiciary committees of the Senate and Assembly and shall provide copies of the reports to the Attorney General.~~

Article 2. Powers and Duties

4265. (a) The director may issue a notice of a support debt accrued or accruing, based upon assignment of a support debt or a request for support enforcement services to enforce and collect a support debt created by a superior court order or an administrative order. The payee under the order shall be informed when a notice of support debt is issued under this section.

(b) The notice may be served upon the debtor in the manner prescribed for the service of a summons in a civil action or be mailed to the debtor at his or her last known address by certified mail, return receipt requested, demanding payment within 20 days of the date of receipt.

(c) The notice of debt shall include all of the following:

(1) A statement of the support debt accrued or accruing, computable on the amount required to be paid under any superior court order to which the department is subrogated or is authorized to enforce and collect, has an assigned interest, or has been authorized to enforce.

(2) A statement that the property of the debtor is subject to collection action.

(3) A statement that the property is subject to lien and foreclosure, ~~distrain~~, seizure and sale, or order to withhold and deliver.

(4) A statement that the net proceeds will be applied to the satisfaction of the support debt.

(d) Action to collect a support debt by lien and foreclosure, or ~~distrain~~, seizure and sale, or order to withhold and deliver shall be lawful after 20 days from the

1 date of service upon the debtor or 20 days from the
2 receipt or refusal by the debtor of the notice of debt.

3 (e) The director shall not be required to issue or serve
4 a notice of support debt prior to taking collection action
5 under this chapter when a responsible parent's support
6 order ~~has contains~~ both of the following:

7 ~~(1) Contains language directing the parent to make~~
8 ~~support payments to the state support registry created in~~
9 ~~Section 4292.~~

10 ~~(2) Includes a~~
11 *(1) Language directing the parent to make support*
12 *payments to the agency designated to receive payments*
13 *by the department.*

14 (2) A statement that income-withholding action
15 under this chapter may be taken without further notice
16 to the responsible parent.

17 4266. (a) The director may, in the absence of a
18 superior court order, serve on the responsible parent or
19 parents a notice and finding of financial responsibility
20 requiring a responsible parent or parents to appear and
21 show cause in an adjudicative proceeding why the finding
22 of responsibility or the amount thereof is incorrect,
23 should not be finally ordered, ~~but~~ *and* should be rescinded
24 or modified. This notice and finding shall relate to the
25 support debt accrued or accruing under this chapter,
26 including periodic payments to be made in the future.
27 The hearing shall be held pursuant to this section and the
28 rules adopted by the department.

29 (b) The notice and finding of financial responsibility
30 shall be served in the same manner prescribed for the
31 service of a summons in a civil action or may be served on
32 the responsible parent by certified mail, return receipt
33 requested. The receipt shall be prima facie evidence of
34 service. The notice shall be served upon the debtor within
35 60 days from the date the state assumes responsibility for
36 the support of the dependent child or children on whose
37 behalf support is sought. If the notice is not served within
38 60 days from that date, the department shall lose the right
39 to reimbursement of payments made after the 60-day
40 period and before the date of notification, except that if

1 the department exercises reasonable efforts to locate the
2 debtor and is unable to do so, the entire 60-day period is
3 ~~tolled until the time as shall be tolled until~~ the debtor can
4 be located.

5 (c) The notice and finding of financial responsibility
6 shall set forth the amount the department has
7 determined the responsible parent owes, the support
8 debt accrued or accruing, and periodic payments to be
9 made in the future. The notice and finding shall also
10 ~~include~~ state all of the following:

11 (1) ~~A statement of the~~ The name of the recipient or
12 custodian and the name of the child or children for whom
13 support is sought.

14 (2) ~~A statement of the~~ The amount of periodic future
15 support payments as to which financial responsibility is
16 alleged.

17 (3) ~~A statement that the~~ The responsible parent may
18 object to all or any part of the notice and finding, and file
19 an application for an adjudicative proceeding to show
20 cause why the responsible parent should not be
21 determined to be liable for any or all of the past debt and
22 the future debt.

23 (4) ~~A statement that, if~~ If the responsible parent fails
24 in timely fashion to file an application for an adjudicative
25 proceeding, the support debt and payments stated in the
26 notice and finding, including periodic support payments
27 in the future, shall be assessed and determined and
28 ordered by the department and that this debt and
29 amounts due under the notice shall be subject to
30 collection action.

31 (5) ~~A statement that the~~ The property of the debtor,
32 without further advance notice or hearing, ~~will~~ shall be
33 subject to lien and foreclosure, ~~distrain~~, seizure and sale,
34 order to withhold and deliver, notice of payroll
35 deduction, or other collection action to satisfy the debt
36 and enforce the support obligation established under the
37 notice.

38 (d) A responsible parent who objects to the notice and
39 finding of financial responsibility may file an application
40 for an adjudicative proceeding within 20 days of the date

1 of service of the notice or thereafter as provided under
2 this subdivision. An adjudicative proceeding shall be held
3 in the county of residence or other place convenient to
4 the responsible parent.

5 (1) If the responsible parent files the application
6 within 20 days, the department shall schedule an
7 adjudicative proceeding to hear the parent's objection
8 and determine the parent's support obligation for the
9 entire period covered by the notice and finding of
10 financial responsibility. The filing of the application ~~stays~~
11 *shall stay* collection action pending the entry of a final
12 administrative order.

13 (2) If the responsible parent fails to file an application
14 within 20 days, the notice and finding shall become a final
15 administrative order. The amounts for current and future
16 support and the support debt stated in the notice ~~are~~ *shall*
17 *be* final and subject to collection, except as provided
18 under paragraphs (3) and (4).

19 (3) If the responsible parent files the application more
20 than 20 days after, but within one year of, the date of
21 service, the department shall schedule an adjudicative
22 proceeding to hear the ~~parents'~~ *parent's* objection and
23 determine the parent's support obligation for the entire
24 period covered by the notice and finding of financial
25 responsibility. The filing of the application ~~does~~ *shall* not
26 stay further collection action, pending the entry of a final
27 administrative order, and ~~does~~ *shall* not affect any prior
28 collection action.

29 (4) If the responsible parent files the application more
30 than one year after the date of service, the department
31 shall schedule an adjudicative proceeding at which the
32 responsible parent ~~must~~ *shall* show good cause for failure
33 to file a timely application. The filing of the application
34 ~~does~~ *shall* not stay future collection action and ~~does~~ *shall*
35 not affect prior collection action. If the presiding officer
36 finds that good cause exists, the presiding officer shall
37 proceed to hear the parent's objection to the notice and
38 determine the parent's support obligation. If the
39 presiding officer finds that good cause does not exist, the
40 presiding officer shall treat the application as a petition

1 for prospective modification of the amount for current
2 and future support established under the notice and
3 finding. In the modification proceeding, the presiding
4 officer shall set current and future support. The
5 responsible parent need show neither good cause nor a
6 substantial change of circumstances to justify
7 modification of current and future support.

8 (5) The department shall retain and shall not refund
9 support money collected more than 20 days after the date
10 of service of the notice. Money withheld as the result of
11 collection action shall be delivered to the department.
12 The department shall distribute that money *to the person*
13 *designated in the support order to receive support, unless*
14 *the state has been subrogated to the rights of the support*
15 *obligee, then to the state*, as provided in this chapter and
16 regulations adopted by the department.

17 (e) If an application for an adjudicative proceeding is
18 filed, the presiding or reviewing officer shall determine
19 the past liability and responsibility, if any, of the alleged
20 responsible parent and shall also determine the amount
21 of periodic payments to be made in the future, which
22 amount is not limited by the amount of any public
23 assistance payment made to or for the benefit of the child.
24 If deviating from the child support—~~schedule~~ *guidelines* in
25 making these determinations, the presiding or reviewing
26 officer shall apply the standards contained in the child
27 support—~~schedule~~ *guidelines* and enter written findings of
28 fact supporting the deviation.

29 (f) If the responsible parent fails to attend or
30 participate in the hearing or other stage of an
31 adjudicative proceeding, upon a showing of valid service,
32 the presiding officer shall enter an administrative order
33 declaring the support debt and payment provisions stated
34 in the notice and finding of financial responsibility to be
35 assessed and determined and subject to collection action.

36 (g) The final administrative order establishing liability
37 or future periodic support payments shall be superseded
38 upon entry of a superior court order for support to the
39 extent the superior court order is inconsistent with the
40 administrative order.

(h) Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further action by a presiding or reviewing officer.

4267. (a) If an alleged father has signed an affidavit acknowledging paternity that has been filed with the state, the ~~office of support enforcement~~ *department* may serve a notice and finding of parental responsibility on him. Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested. The notice shall have attached to it a copy of the affidavit or certification of birth record information advising of the existence of a filed affidavit and shall state all of the following:

(1) An alleged father may file an application for an adjudicative proceeding at which he will be required to appear and show cause why the amount stated in the finding of financial responsibility as to support is incorrect and should not be ordered.

(2) An alleged father may request that a blood or genetic test be administered to determine whether that test would exclude him from being a natural parent and, if not excluded, may subsequently request that the ~~office of support enforcement~~ *department* initiate an action in superior court to determine the existence of the parent-child relationship.

(3) If an alleged father does not request that a blood or genetic test be administered or file an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent court determination that the parent-child relationship does not exist.

(b) An alleged father who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to 20 days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing

1 of good cause thereafter. An adjudicative proceeding
2 under this section shall be pursuant to Section 4266. The
3 only issues shall be the amount of the accrued debt, the
4 amount of the current and future support obligation, and
5 the reimbursement of the costs of blood or genetic tests
6 if advanced by the department.

7 (c) If the application for an adjudicative proceeding is
8 filed within 20 days of service of the notice, collection
9 action shall be stayed pending a final decision by the
10 department. If no application is filed within 20 days, both
11 of the following apply:

12 (1) The amounts in the notice shall become final and
13 the debt created therein shall be subject to collection
14 action.

15 (2) Any amounts so collected shall neither be
16 refunded nor returned if the alleged father is later found
17 not to be a responsible parent.

18 (d) An alleged father who denies being a responsible
19 parent may request that a blood or genetic test be
20 administered at any time. The request for testing shall be
21 in writing and served on the ~~office of support~~
22 ~~enforcement~~ *department* personally or by registered or
23 certified mail. If a request for testing is made, the
24 department shall arrange for the test and, pursuant to
25 rules adopted by the department, may advance the cost
26 of that testing. The department shall mail a copy of the
27 test results by certified mail, return receipt requested, to
28 the alleged father's last known address.

29 (e) If the test excludes the alleged father from being
30 a natural parent, the ~~office of support enforcement~~
31 *department* shall file a copy of the results with the
32 appropriate state office and shall dismiss any pending
33 administrative collection proceedings based upon the
34 affidavit in issue. The appropriate state office shall
35 remove the alleged father's name from the birth
36 certificate.

37 (f) The alleged father may, within 20 days after the
38 date of receipt of the test results, request the ~~office of~~
39 ~~support enforcement~~ *department* to initiate an action to
40 determine the existence of the parent-child relationship.

1 If the ~~office of support enforcement~~ *department* initiates
2 a superior court action at the request of the alleged father
3 and the decision of the court is that the alleged father is
4 a natural parent, the alleged father shall be liable for court
5 costs incurred.

6 (g) If the alleged father does not request the ~~office of~~
7 ~~support enforcement~~ *department* to initiate a superior
8 court action, or if the alleged father fails to appear and
9 cooperate with blood or genetic testing, the notice of
10 parental responsibility shall become final for all purposes
11 and may be overturned only by a subsequent superior
12 court order.

13 4268. A support obligation arising under the statutes
14 or common law of this state binds the responsible parent,
15 present in this state, regardless of the presence or
16 residence of the custodian or children. The obligor is
17 presumed to have been present in the State of California
18 during the period for which support is sought until
19 otherwise shown. The department may establish an
20 administrative order pursuant to Section 4266 that is
21 based upon any support obligation imposed or imposable
22 under the statutes or common law of any state in which
23 the obligor was present during the period for which
24 support is sought.

25 4269. If an adjudicative proceeding is requested by an
26 alleged father under Section 4267, the department shall
27 mail a copy of the notice of hearing to the mother at her
28 last known address. If the mother appears for the
29 proceeding, she shall be allowed to participate in it.
30 Participation includes giving testimony and being
31 present for, or listening to, other testimony offered in the
32 proceeding. Nothing in this section precludes an
33 administrative law judge from limiting participation to
34 preserve the confidentiality of information protected by
35 law.

36 4270. (a) The department, the physical custodian, or
37 the responsible parent may petition for a prospective
38 modification of a final administrative order if both of the
39 following exist:

1 (1) The administrative order has not been superseded
2 by a superior court order.

3 (2) There has been a substantial change of
4 circumstances, except as provided under paragraph (4)
5 of subdivision (d) of Section 4266.

6 (b) An order of child support may be modified one
7 year or more after it has been entered without showing
8 a substantial change of circumstances if any of the
9 following exist:

10 (1) The order in practice works a severe economic
11 hardship on either party or the child.

12 (2) The party requests an adjustment in an order for
13 child support that was based on guidelines which
14 determined the amount of support according to the
15 child's age, and the child is no longer in the age category
16 on which the current support amount was based.

17 (3) The child is a full-time student and reasonably
18 expected to complete secondary school or the equivalent
19 level of vocational or technical training before the child
20 becomes 19 years of age upon a finding that there is a need
21 to extend support beyond the 18th birthday.

22 (c) An order may be modified without showing a
23 substantial change of circumstances if the requested
24 modification is to do either of the following:

25 (1) Require health insurance coverage for a child
26 covered by the order.

27 (2) Modify an existing order for health insurance
28 coverage.

29 (d) Support orders may be adjusted once every 24
30 months based upon changes in the income of the parents
31 without a showing of substantially changed
32 circumstances.

33 (e) (1) All administrative orders may be modified
34 based upon changes in the child support—~~schedule~~
35 *guidelines* established under state law without a
36 substantial change of circumstances. The petition may be
37 filed based on changes in the child support—~~schedule~~
38 *guidelines* after 12 months has expired from the entry of
39 the administrative order or the most recent modification
40 order setting child support, whichever is later. However,

1 if a party is granted relief under this subdivision, 24
2 months must pass before another petition for
3 modification may be filed pursuant to subdivision (d).

4 (2) If, pursuant to subdivision (d) or paragraph (1) of
5 this subdivision, the order modifies a child support
6 obligation by more than 30 percent and the change would
7 cause significant hardship, the change may be
8 implemented in two equal increments, one at the time of
9 the entry of the order and the second six months from the
10 entry of the order. Twenty-four months must pass
11 following the second change before a petition for
12 modification under subdivision (d) may be filed.

13 (f) An increase in the wage or salary of the parent or
14 custodian who is receiving the support transfer payments
15 is not a substantial change in circumstances for purposes
16 of modification under paragraph (2) of subdivision (a).
17 An obligor's voluntary unemployment or voluntary
18 underemployment, by itself, is not a substantial change of
19 circumstances.

20 (g) The department shall file the petition and a
21 supporting affidavit with the director or the director's
22 designee when the department petitions for
23 modification.

24 (h) The responsible parent or the physical custodian
25 shall follow the procedures in this chapter for filing an
26 application for an adjudicative proceeding to petition for
27 modification.

28 (i) Upon the filing of a proper petition or application,
29 the director or the director's designee shall issue an order
30 directing each party to appear and show cause why the
31 order should not be modified.

32 (j) If the presiding or reviewing officer finds a
33 modification is appropriate, the officer shall modify the
34 order and set current and future support.

35 4271. (a) The director may assert a lien upon the real
36 or personal property of a responsible parent in the
37 following circumstances:

38 (1) When a support payment is past due, if the parent's
39 support order was entered in accordance with Section
40 ~~4294.2~~ 4292.

1 (2) Twenty-one days after service of a notice of
2 support debt under Section 4265.

3 (3) Twenty-one days after service of a notice and
4 finding of financial responsibility under Section 4266.

5 (4) Twenty-one days after service of a notice and
6 finding of parental responsibility.

7 (5) Twenty-one days after service of a notice of
8 support owed under Section 4296.

9 (b) The claim of the department for a support debt,
10 not paid when due, shall be a lien against all property of
11 the debtor with priority of a secured creditor. This lien
12 shall be separate and apart from, and in addition to, any
13 other lien created by, or provided for, in any other law.
14 The lien shall attach to all real and personal property of
15 the debtor on the date of filing of that statement with the
16 county auditor of the county in which the property is
17 located.

18 (c) Whenever a support lien has been filed and there
19 is in the possession of any person, firm, corporation,
20 association, political subdivision, or department of the
21 state having notice of that lien any property which may
22 be subject to the support lien, the property shall not be
23 paid over, released, sold, transferred, encumbered, or
24 conveyed, except as otherwise provided by state law
25 unless either of the following applies:

26 (1) A written release or waiver signed by the director
27 has been delivered to the person, firm, corporation,
28 association, political subdivision, or department of the
29 state.

30 (2) A determination has been made in an adjudicative
31 proceeding pursuant to Section 4266 or by a superior
32 court ordering release of the support lien on the basis that
33 no debt exists or that the debt has been satisfied.

34 4272. The director may, at any time after filing of a
35 support lien, serve a copy of the lien upon any person,
36 firm, corporation, association, political subdivision, or
37 department of the state in possession of earnings or
38 deposits or balances held in any bank account of any
39 nature which are due, owing, or belonging to—~~said the~~
40 debtor. The support lien shall be served upon the person,

1 firm, corporation, association, political subdivision, or
2 department of the state either in the manner prescribed
3 for the service of summons in a civil action or by certified
4 mail, return receipt requested. No lien filed under
5 Section 4271 shall have any effect against earnings or bank
6 deposits or balances unless it states the amount of the
7 support debt accrued and unless service upon the person,
8 firm, corporation, association, political subdivision, or
9 department of the state in possession of *the* earnings or
10 deposits or balances is accomplished pursuant to this
11 section.

12 4273. (a) The director may issue to any person, firm,
13 corporation, association, political subdivision,
14 department of the state, or agency, subdivision, or
15 instrumentality of the United States, an order to withhold
16 and deliver property of any kind, including, but not
17 ~~restricted to, earnings which~~ *limited to, earnings that* are
18 or might become due, owing, or belonging to the debtor,
19 when the director has reason to believe that there is in the
20 possession of that person, firm, corporation, association,
21 political subdivision, department of the state, or agency,
22 subdivision, or instrumentality of the United States
23 property which is or might become due, owing, or
24 belonging to the debtor. That order to withhold and
25 deliver may be issued in the following circumstances:

26 (1) When a support payment is past due, if a
27 responsible parent's support order has both of the
28 following:

29 (A) Language directing the parent to make support
30 payments to the ~~state support registry~~ *agency designated*
31 *to receive payments by the department*.

32 (B) A statement that other income-withholding action
33 under this chapter may be taken without further notice
34 to the responsible parent, as provided in Section ~~4294.2~~
35 *4292*.

36 (2) Twenty-one days after service of a notice of
37 support debt under Section 4265.

38 (3) Twenty-one days after service of a notice and
39 finding of parental responsibility under Section 4267.

1 (4) Twenty-one days after service of a notice of
2 support owed under Section 4296.

3 (5) Twenty-one days after service of a notice and
4 finding of financial responsibility under Section 4266.

5 (6) When appropriate under Section 4289.2.

6 (b) The order to withhold and deliver shall ~~include~~ *do*
7 all of the following:

8 (1) State the amount of the support debt accrued.

9 (2) State in summary the terms of Sections 4274 and
10 4276.

11 (3) Be served in the manner prescribed for the service
12 of a summons in a civil action or by certified mail, return
13 receipt requested.

14 (c) Any person, firm, corporation, association, political
15 subdivision, department of the state, or agency,
16 subdivision, or instrumentality of the United States upon
17 whom service has been made is hereby required to ~~do~~ *at*
18 *both* of the following:

19 (1) Answer the order to withhold and deliver within
20 20 days, exclusive of the day of service, under oath and in
21 writing, and ~~shall~~ make true answers to the matters
22 inquired of therein.

23 (2) Provide further and additional answers when
24 requested by the director.

25 (d) Any person, firm, corporation, association,
26 political subdivision, department of the state, or agency,
27 subdivision, or instrumentality of the United States in
28 possession of any property which may be subject to the
29 claim of the department shall do all of the following:

30 (1) ~~(A)~~ Immediately withhold the property upon
31 receipt of the order to withhold and deliver.

32 ~~(B)~~

33 (2) Deliver the property to the director as soon as the
34 20-day answer period expires.

35 ~~(C)~~

36 (3) Continue to withhold earnings payable to the
37 debtor at each succeeding disbursement interval as
38 provided for in Section 4274, and deliver amounts
39 withheld from earnings to the director on the date
40 earnings are payable to the debtor.

1 ~~(D)~~

2 (4) Inform the director of the date the amounts were
3 withheld as requested under this section.

4 ~~(2)~~

5 (5) Furnish to the director a good and sufficient bond,
6 satisfactory to the director, conditioned upon final
7 determination of liability.

8 (e) An order to withhold and deliver served under this
9 section shall not expire until one of the following occurs:

10 ~~(1) Released in writing by the office of support~~
11 ~~enforcement.~~

12 ~~(2) Terminated by court order.~~

13 ~~(1) The order is released in writing by the department.~~

14 ~~(2) The order is terminated by the court.~~

15 (3) The person or entity receiving the order to
16 withhold and deliver does not possess property of, or owe
17 money to, the debtor for any period of 12 consecutive
18 months following the date of service of the order to
19 withhold and deliver.

20 (f) Where money is due and owing under any contract
21 of employment, express or implied, or is held by any
22 person, firm, corporation, or association, political
23 subdivision, or department of the state, or agency,
24 subdivision, or instrumentality of the United States
25 subject to withdrawal by the debtor, that money shall be
26 delivered by remittance payable to the order of the
27 director.

28 (g) Delivery to the director of the money or other
29 property held or claimed shall satisfy the requirement
30 and serve as full acquittance of the order to withhold and
31 deliver.

32 (h) A person, firm, corporation, or association, political
33 subdivision, department of the state, or agency,
34 subdivision, or instrumentality of the United States that
35 complies with the order to withhold and deliver under
36 this chapter ~~is not~~ *shall not be* liable to the debtor for
37 complying with the order to withhold and deliver under
38 this chapter.

39 (i) The director may hold the money or property
40 delivered under this section in trust for application on the

1 indebtedness involved or for return, without interest, in
2 accordance with final determination of liability or
3 nonliability.

4 (j) Exemptions contained in Section 4274 apply to
5 orders to withhold and deliver issued under this section.

6 (k) The director shall also, on or before the date of
7 service of the order to withhold and deliver, mail or cause
8 to be mailed a copy of the order to withhold and deliver
9 to the debtor at the debtor's last known post office
10 address, or, in the alternative, a copy of the order to
11 withhold and deliver shall be served on the debtor in the
12 same manner as a summons in a civil action on or before
13 the date of service of the order or within two days
14 thereafter. The copy of the order shall be mailed or
15 served together with a concise explanation of the right to
16 petition for judicial review. This requirement is not
17 jurisdictional, but, if the copy is not mailed or served as
18 in this section provided, or if any irregularity appears with
19 respect to the mailing or service, the superior court, in its
20 discretion on motion of the debtor promptly made and
21 supported by affidavit showing that the debtor has
22 suffered substantial injury due to the failure to mail the
23 copy, may set aside the order to withhold and deliver and
24 award to the debtor an amount equal to the damages
25 resulting from the director's failure to serve on or mail to
26 the debtor the copy.

27 (l) An order to withhold and deliver issued in
28 accordance with this section has priority over any other
29 wage assignment, garnishment, attachment, or other
30 legal process, except for another wage assignment,
31 garnishment, attachment, or other legal process for child
32 support.

33 (m) ~~The office of support enforcement~~ *department*
34 shall notify any person, firm, corporation, association, or
35 political subdivision, department of the state, or agency,
36 subdivision, or instrumentality of the United States
37 required to withhold and deliver the earnings of a debtor
38 under this action that they may deduct a processing fee
39 from the remainder of the debtor's earnings, even if the
40 remainder would otherwise be exempt under Section

4274. The processing fee shall not exceed ten dollars (\$10) for the first disbursement to the department and one dollar (\$1) for each subsequent disbursement under the order to withhold and deliver.

4274. Whenever a support lien or order to withhold and deliver is served upon any person, firm, corporation, association, political subdivision, or department of the state asserting a support debt against earnings and ~~there is in the possession of~~ that person, firm, corporation, association, political subdivision, or department of the state, ~~any such~~ *has possession of any of those* earnings, 50 percent of the disposable earnings shall be exempt and may be disbursed to the debtor whether the earnings are paid, or to be paid weekly, monthly, or at other intervals and whether there be due the debtor earnings for one week or for a longer period. The lien or order to withhold and deliver shall continue to operate and require the person, firm, corporation, association, political subdivision, or department of the state to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until the entire amount of the support debt stated in the lien or order to withhold and deliver has been withheld. As used in this chapter, the term “earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type. Earnings shall specifically include all gain derived from capital, from labor, or from both combined, not including profit gained through sale or conversion of capital assets. The term “disposable earnings” means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld.

4275. When providing support enforcement services, ~~the office of support enforcement~~ *department* may take action under this article and Article 3 (commencing with

1 Section 4290), against a responsible parent's earnings,
2 located in, or subject to the jurisdiction of, the State of
3 California regardless of the presence or residence of the
4 responsible parent. If the responsible parent resides in
5 another state or country, the ~~office of support~~
6 ~~enforcement~~ department shall serve a notice under
7 Section 4274 more than 60 days before taking collection
8 action.

9 4276. (a) Any person, firm, corporation, association,
10 political subdivision, or department of the state shall be
11 liable to the department in an amount equal to 100
12 percent of the value of the debt which is the basis of the
13 lien, order to withhold and deliver, ~~distrain~~, or
14 assignment of earnings, or the amount that should have
15 been withheld, whichever amount is less, together with
16 costs, interest, and reasonable ~~attorney~~ attorneys' fees if
17 that person or entity does any of the following:

18 (1) Fails to answer an order to withhold and deliver
19 within the time prescribed.

20 (2) Fails or refuses to deliver property pursuant to the
21 order.

22 (3) After actual notice of filing of a support lien, pays
23 over, releases, sells, transfers, or conveys real or personal
24 property subject to a support lien to or for the benefit of
25 the debtor or any other person.

26 (4) Fails or refuses to surrender property ~~distrained~~
27 *seized* under Section 4279 upon demand.

28 (5) Fails or refuses to honor an assignment of earnings
29 presented by the director.

30 (b) The director is authorized to issue a notice of debt
31 pursuant to Section 4265 and to take appropriate action
32 to collect the debt under this chapter if either of the
33 following applies:

34 (1) A judgment has been entered as the result of an
35 action in superior court against a person, firm,
36 corporation, association, political subdivision, or
37 department of the state based on a violation of this
38 section.

39 (2) Liability has been established under Section
40 4289.2.

1 4277. Whenever any person, firm, corporation,
2 association, political subdivision, or department of the
3 state has in its possession earnings, deposits, accounts, or
4 balances in excess of the amount of the debt claimed by
5 the department, that person, firm, corporation,
6 association, political subdivision, or department of the
7 state may, without liability under this chapter, release the
8 excess to the debtor.

9 4278. A lien, order to withhold and deliver, or any
10 other notice or document authorized by this article or
11 Article 3 (commencing with Section 4290) may be served
12 on the main office of a bank, savings and loan association,
13 or credit union or on a branch office of the financial
14 institution. Service on the main office shall be effective to
15 attach the deposits of a responsible parent in the financial
16 institution and compensation payable for personal
17 services due the responsible parent from the financial
18 institution. Service on a branch office shall be effective to
19 attach the deposits, accounts, credits, or other personal
20 property of the responsible parent, excluding
21 compensation payable for personal services, in the
22 possession or control of the particular branch served.

23 If the department initiates collection action under this
24 chapter against a community bank account, the debtor or
25 the debtor's spouse, upon service on the department of a
26 timely application, has a right to an adjudicative
27 proceeding to establish that the funds in the account, or
28 a portion of those funds, were the earnings of the
29 nonobligated spouse, and are exempt from the
30 satisfaction of the child support obligation of the debtor.

31 4279. Whenever a support lien has been filed
32 pursuant to Section 4271, the director may collect the
33 support debt stated in the lien by the distraint, seizure,
34 and sale of the property subject to the lien. Not less than
35 10 days prior to the date of sale, the director shall cause
36 a copy of the notice of sale to be transmitted by regular
37 mail and by any form of mailing requiring a return
38 receipt to the debtor and any person known to have, or
39 claim an interest in, the property. That notice shall
40 contain a general description of the property to be sold

1 and the time, date, and place of the sale. The notice of sale
2 shall be posted in at least two public places in the county
3 ~~wherein the distraint in which the seizure~~ has been
4 made. The time of sale shall not be less than 10 nor more
5 than 20 days from the date of posting of the notices. The
6 sale shall be conducted by the director, who shall proceed
7 to sell the property by parcel or by lot at a public auction,
8 and who may set a minimum reasonable price to include
9 the expenses of making a levy and of advertising the sale,
10 and if the amount bid for the property at the sale is not
11 equal to the price so fixed, the director may declare the
12 property to be purchased by the department for that
13 price, or may conduct another sale of the property
14 pursuant to the provisions of this section. In the event of
15 sale, the debtor's account shall be credited with the
16 amount for which the property has been sold. Property
17 acquired by the department as herein prescribed may be
18 sold by the director at public or private sale, and the
19 amount realized shall be placed in the General Fund and
20 shall be available for appropriation to the department. In
21 all cases of sale, the director shall issue a bill of sale or a
22 deed to the purchaser. The bill of sale or deed shall be
23 prima facie evidence of the right of the director to make
24 the sale and conclusive evidence of the regularity of his
25 or her proceeding in making the sale, and shall transfer
26 to the purchaser all right, title, and interest of the debtor
27 in the property. The proceeds of any sale, except in those
28 cases ~~wherein in which~~ the property has been acquired
29 by the department, shall be first applied by the director
30 to reimbursement of the costs of ~~distraint seizure~~ and
31 sale, and thereafter in satisfaction of the delinquent
32 account. Any excess which shall thereafter remain in the
33 hands of the director shall be refunded to the debtor.
34 Sums ~~so~~ refundable to a debtor may be subject to seizure
35 ~~or distraint~~ by any taxing authority of the state or its
36 political subdivisions or by the director for new sums due
37 and owing subsequent to the subject proceeding. Except
38 as specifically provided in this chapter, there shall be
39 exempt from ~~distraint, seizure, seizure~~ and sale under

1 this chapter any property—*as that* is exempt therefrom
2 under the laws of this state.

3 4280. Whenever a support lien has been filed, an
4 action in foreclosure of lien upon real or personal
5 property may be brought in the superior court of the
6 county where real or personal property is or was located
7 and the lien was filed and judgment shall be rendered in
8 favor of the department for the amount due, with costs,
9 and the court shall allow, as part of the costs, the moneys
10 paid for making and filing the claim of lien, and—
11 ~~reasonable attorney's fee~~ *reasonable attorneys' fees*. The
12 court shall order any property upon which any lien
13 provided for by this chapter is established to be sold by
14 the sheriff of the proper county to satisfy the lien and
15 costs. The payment of the lien debt, costs, and reasonable
16 attorney fees, at any time before sale, shall satisfy the
17 judgment of foreclosure. Where the net proceeds of sale
18 upon application to the debt claimed do not satisfy the
19 debt in full, the department shall have judgment over for
20 any deficiency remaining unsatisfied and further levy
21 and sales upon other property of the judgment debtor
22 may be made under the same execution. In all sales
23 contemplated under this section, advertising of notice
24 shall only be necessary for two weeks in a newspaper
25 published in the county where the property is located,
26 and if there—~~be~~ *is* no newspaper therein, then in the most
27 convenient newspaper having a circulation in the county.
28 Remedies provided in this section are alternatives to
29 remedies provided for in other sections of this chapter.

30 4281. Any person owning real property, or any
31 interest in real property, against which a support lien has
32 been filed and foreclosure instituted, shall have the right
33 to pay the amount due, together with expenses of the
34 proceedings and reasonable—~~attorney~~ *attorneys'* fees to
35 the director and upon that payment the director shall
36 restore the property to the person and all further
37 proceedings in the foreclosure action shall cease. The
38 person shall also have the right within 240 days after sale
39 of property foreclosed under Section 4280 to redeem the
40 property by making payment to the purchaser in the

1 amount paid by the purchaser plus interest thereon at the
2 rate of 6 percent per annum.

3 4282. With respect to any arrearages on a support
4 debt under this chapter, the director may at any time
5 consistent with the income, earning capacity, and
6 resources of the debtor, set or reset a level and schedule
7 of payments to be paid upon the support debt. The
8 director may, upon petition of the debtor providing
9 sufficient evidence of hardship, after consideration of the
10 adopted child support schedule, release or refund
11 moneys taken pursuant to Section 4273 to provide for the
12 reasonable necessities of the responsible parent or
13 parents and minor children in the home of the
14 responsible parent. Nothing in this section shall be
15 construed to require the director to take any action which
16 would require collection of less than the obligation for
17 current support required under a superior court order or
18 an administrative order or to take any action that would
19 result in a bar of collection of arrearages from the debtor
20 by reason of the statute of limitations.

21 4283. The director may at any time release a support
22 lien, or order to withhold and deliver, on all or part of the
23 property of the debtor, or return seized property without
24 liability, if assurance of payment is deemed adequate by
25 the director, or if that action will facilitate the collection
26 of the debt, but the release or return shall not operate to
27 prevent future action to collect from the same or other
28 property.

29 4284. If the director finds that the collection of any
30 support debt, accrued under a superior court order, based
31 upon subrogation, or an authorization to enforce and
32 collect under Section 4262, or assignment of, or a request
33 for support enforcement services to enforce and collect
34 the amount of support ordered by any superior court
35 order is in jeopardy, the director may make a written
36 demand under Section 4265 for immediate payment of
37 the support debt and, upon failure or refusal immediately
38 to pay that support debt, may file and serve liens pursuant
39 to Sections 4271 and 4272, without regard to the 20-day
40 period provided in Section 4265, except that no further

1 action under Sections 4273, 4279, and 4280 may be taken
2 until the notice requirements of Section 4265 are met.

3 4285. Any person against whose property a support
4 lien has been filed or an order to withhold and deliver has
5 been served pursuant to this chapter may apply for relief
6 to the superior court of the county—~~wherein~~ *in which* the
7 property is located. It is the intent of this chapter that
8 jurisdictional and constitutional issues, if any, shall be
9 subject to judicial review, but that administrative
10 remedies be exhausted prior to judicial review.

11 4286. Any support debt due the department from a
12 responsible parent may be written off and cease to be
13 accounted as an asset if the director finds there are no
14 cost-effective means of collecting the debt.

15 The department may accept offers of compromise of
16 disputed claims or may grant partial or total charge-off of
17 support arrears owed to the department up to the total
18 amount of public assistance paid to or for the benefit of
19 the persons for whom the support obligation was
20 incurred. The department shall adopt rules and
21 regulations as to the considerations to be made in the
22 granting or denial of partial or total charge-off and offers
23 of compromise of disputed claims of debt for support
24 arrears. The rights of the payee under an order for
25 support shall not be prejudiced if the department accepts
26 an offer of compromise, or grants a partial or total
27 charge-off under this section.

28 The responsible parent owing a support debt may
29 execute a written extension or waiver of any statute that
30 may bar or impair the collection of the debt and the
31 extension or waiver shall be effective according to its
32 terms.

33 4287. No employer shall discharge or discipline an
34 employee or refuse to hire a person for reason that an
35 assignment of earnings has been presented in settlement
36 of a support debt or that a support lien or order to
37 withhold and deliver has been served against the
38 employee's earnings. If an employer discharges or
39 disciplines an employee or refuses to hire a person in
40 violation of this section, the employee or person shall

1 have a cause of action against the employer. The
2 employer shall be liable for double the amount of lost
3 wages and any other damages suffered as a result of the
4 violation and for costs and reasonable ~~attorney~~ attorneys'
5 fees, and shall be subject to a civil penalty of not more
6 than two thousand five hundred dollars (\$2,500) for each
7 violation, to be assessed and collected by the department.
8 The employer may also be ordered to hire, rehire, or
9 reinstate the aggrieved individual.

10 4288. Any person, firm, corporation, association,
11 political subdivision, department of the state, or agency,
12 subdivision, or instrumentality of the United States
13 employing a person owing a support debt or obligation,
14 shall honor, according to its terms, a duly executed
15 assignment of earnings presented by the director as a plan
16 to satisfy or retire a support debt or obligation. This
17 requirement to honor the assignment of earnings and the
18 assignment of earnings itself shall be applicable whether
19 the earnings are to be paid presently or in the future and
20 shall continue in force and effect until released in writing
21 by the director. Payment of moneys pursuant to an
22 assignment of earnings presented by the director shall
23 serve as full acquittance under any contract of
24 employment. A person, firm, corporation, association,
25 political subdivision, department of the state, or agency,
26 subdivision, or instrumentality of the United States that
27 complies with the assignment of earnings under this
28 chapter ~~is not~~ shall not be liable to the debtor for
29 complying with the assignment of earnings under this
30 chapter. The director shall be released from liability for
31 improper receipt of moneys under an assignment of
32 earnings upon return of any moneys so received.

33 An assignment of earnings presented by the director in
34 accordance with this section has priority over any other
35 wage assignment, garnishment, attachment, or other
36 legal process except for another wage assignment,
37 garnishment, attachment, or other legal process for
38 support moneys.

39 The employer may deduct a processing fee from the
40 remainder of the debtor's earnings, even if the remainder

1 would be exempt under Section 4274. The processing fee
2 shall not exceed ten dollars (\$10) from the first
3 disbursement to the department and one dollar (\$1) for
4 each subsequent disbursement under the assignment of
5 earnings.

6 4288.2. Whenever the director has been authorized
7 under Section 4265 to take action to establish, enforce,
8 and collect support moneys, the custodial parent and the
9 child or children are deemed, without the necessity of
10 signing any document, to have appointed the director as
11 his or her true and lawful attorney in fact to act in his or
12 her name, place, and stead to perform the specific act of
13 endorsing any and all drafts, checks, money orders, or
14 other negotiable instruments representing support
15 payments that are received on behalf of the child or
16 children to effect proper and lawful distribution of the
17 support moneys in accordance with Section 657 of Title
18 42 of the United States Code.

19 4289. Disability payments made pursuant to state law
20 shall be classified as earnings and shall be subject to
21 collection action by the ~~office for support enforcement~~
22 *department* under this chapter and all other applicable
23 state statutes.

24 4289.2. (a) The director may issue a notice of
25 noncompliance to any person, firm, corporation,
26 association, or political subdivision of the State of
27 California or any officer or agent thereof who has violated
28 Section 4276 ~~or 4293~~, who is in possession of support
29 moneys, or who has had support moneys in his or her
30 possession at some time in the past, which support
31 moneys were or are claimed by the department as the
32 property of the department by assignment, subrogation,
33 or by operation of law or legal process under this chapter,
34 if the support moneys have not been remitted to *the*
35 *agency designated by the department as required by law.*

36 ~~The~~

37 (b) *The* notice shall describe the claim of the
38 department, stating the legal basis for the claim and shall
39 provide sufficient detail to enable the person, firm,
40 corporation, association, or political subdivision or officer

1 or agent thereof upon whom service is made to identify
2 the support moneys in issue or the specific violation of
3 Section 4276 that has occurred. The notice may also make
4 inquiry as to relevant facts necessary to the resolution of
5 the issue.

6 ~~The~~

7 (c) *The* notice may be served by certified mail, return
8 receipt requested, or in the manner of a summons in a
9 civil action. Upon service of the notice, all moneys not yet
10 disbursed or spent or like moneys to be received in the
11 future are deemed to be impounded and shall be held in
12 trust pending answer to the notice and any adjudicative
13 proceeding.

14 ~~The~~

15 (d) *The* notice shall be answered under oath and in
16 writing within 20 days of the date of service, which
17 answer shall include true answers to the matters inquired
18 of in the notice. The answer shall also either acknowledge
19 the department's right to the moneys or ~~application~~
20 *apply* for an adjudicative proceeding to contest the
21 allegation that ~~Section 4276 or 4293 has been violated or~~
22 ~~determine the~~ *Section 4276 has been violated or to*
23 *determine the* rights to ownership of the support moneys
24 in issue. The hearing shall be held pursuant to the rules
25 of the department. The burden of proof to establish
26 ownership of the support moneys claimed, including, but
27 not limited to, moneys not yet disbursed or spent, is on the
28 department.

29 ~~If~~

30 (e) *If* no answer is made within the 20 days, the
31 department's claim shall be assessed and determined and
32 subject to collection action as a support debt pursuant to
33 Section 4276 ~~or 4293~~.

34 4289.3. (a) Any debtor may, at any time within one
35 year from the date of service of the notice of support debt,
36 petition the director or the director's designee for an
37 adjudicative proceeding. A copy of the petition shall also
38 be served on the department. The filing of the petition
39 shall not stay any collection action being taken, but the
40 debtor may petition the director or the director's

1 designee for an order staying collection action pending
2 the final administrative order. Any moneys held or taken
3 by collection action prior to the date of any stay and any
4 support moneys claimed by the department, including
5 moneys to be received in the future to which the
6 department may have a claim, shall be held in trust
7 pending the final order, to be disbursed in accordance
8 with the final order. The director or the director's
9 designee shall condition the stay to provide for the trust.

10 ¶

11 **(b)** *If* the petition is granted, the issue in the
12 proceeding is limited to the determination of the
13 ownership of the moneys claimed in the notice of debt.
14 The right to an adjudicative proceeding is conditioned
15 upon holding of any funds not yet disbursed or expended
16 or to be received in the future in trust pending the final
17 order in these proceedings. The presiding or reviewing
18 officer shall enter an appropriate order providing for the
19 terms of the trust.

20 ¶

21 **(c)** *If* the debtor fails to attend or participate in the
22 hearing or other stage of an adjudicative proceeding, the
23 presiding officer shall, upon showing of valid service,
24 enter an order declaring the amount of support moneys,
25 as claimed in the notice, to be assessed and determined
26 and subject to collection action.

27 ¶

28 **(d)** *If*, at any time, the superior court enters judgment
29 for an amount of debt at variance with the amount
30 determined by the final order in an adjudicative
31 proceeding, the judgment shall supersede the final
32 administrative order. Any debt determined by the
33 superior court in excess of the amount determined by the
34 final administrative order shall be the property of the
35 department as assigned under Section 602(A)(26)(a) of
36 Title 42 of the United States Code, or Section 4265 or 4288.
37 The department may, despite any final administrative
38 order, take action pursuant to this chapter to obtain a
39 judgment or to collect moneys determined by a judgment
40 to be due and owing.



1 If

2 4289.4. If public assistance moneys have been paid to
3 a parent for the benefit of that parent's minor dependent
4 children, debt under this chapter shall not be incurred by,
5 nor at any time be collected from, that parent because of
6 that payment of assistance. Nothing in this section
7 prohibits or limits the department from acting to assess a
8 debt against a recipient or ex-recipient for receipt of
9 support moneys paid in satisfaction of the debt which
10 have been assigned to the department but were received
11 by a recipient or ex-recipient from another responsible
12 parent and not remitted to the department. To collect
13 these wrongfully retained funds from the recipient, the
14 department may not take collection action in excess of 10
15 percent of the grant payment standard during any month
16 the public assistance recipient remains in that status
17 unless required by federal law. Payments not credited
18 against the department's debt under some other state law
19 may not be assessed or collected under this section.

20 ~~4289.4.~~

21 4289.5. While discharging its responsibilities to
22 enforce the support obligations of responsible parents,
23 the department shall respect the right of privacy of
24 recipients of public assistance and of other persons. Any
25 inquiry about sexual activity shall be limited to that
26 necessary to identify and locate possible fathers and to
27 gather facts needed in the adjudication of parentage.

28 4289.6. Whenever any person files an application for
29 an adjudicative proceeding under Section 4266 ~~or 4289.2,~~
30 ~~4289.2, or 4289.3,~~ after the department has notified the
31 person of the requirements of this section, it shall be the
32 responsibility of the person to notify the department of
33 the person's mailing address at the time the application
34 for an adjudicative proceeding is made and also to notify
35 the department of any subsequent change of mailing
36 address during the pendency of the administrative
37 proceeding and any judicial review. Whenever the
38 person has a duty under this section to advise the
39 department of the person's mailing address, mailing by
40 the department by certified mail to the person's last

1 known address constitutes service as required by state
2 law.

3 4289.7. (a) Whenever a support order is entered or
4 modified under this chapter, the department shall
5 require the responsible parent to maintain or provide
6 health insurance coverage for any dependent child.

7 (b) “Health insurance coverage,” as used in this
8 section, does not include medical assistance provided
9 under public assistance programs.

10 (c) A parent ordered to provide health insurance
11 coverage shall provide proof of that coverage or proof
12 coverage is unavailable to the department within 20 days
13 of the entry of the order.

14 (d) Every order requiring a parent to provide health
15 insurance coverage shall be entered in compliance with
16 state law and be subject to direct enforcement pursuant
17 to state law.

18 4289.8. In furtherance of the policy of the state to
19 cooperate with the federal government in the
20 administration of the child support enforcement
21 program, the department may adopt rules and
22 regulations as may become necessary to entitle the state
23 to participate in federal funds, unless the rules are
24 prohibited by law. Any section or provision of law dealing
25 with the child support program that may be susceptible
26 to more than one construction shall be interpreted in
27 favor of the construction most likely to comply with
28 federal laws entitling the state to receive federal funds. If
29 any law dealing with the child support enforcement
30 program is ruled to be in conflict with federal
31 requirements that are a prescribed condition of the
32 allocation of federal funds, the conflicting law is declared
33 to be inoperative solely to the extent of the conflict.

34

35 Article 3. ~~State Support Registry~~ *Support*
36 *Enforcement Service*

37

38 ~~4290. The Legislature recognizes the financial impact~~
39 ~~on custodial parents and children when child support is~~
40 ~~not received on time, or in the correct amount. The~~



~~Legislature also recognizes the burden placed upon the responsible parent and the second family when enforcement action must be taken to collect delinquent support.~~

~~It is the intent of the Legislature to create a central state support registry to improve the recordkeeping of support obligations and payments, thereby providing protection for both parties, and reducing the burden on employers by creating a single standardized process through which support payments are deducted from earnings.~~

~~It is also the intent of the Legislature that child support payments be made through mandatory wage assignment or payroll deduction if the responsible parent becomes delinquent in making support payments under a court order or an administrative order for support.~~

~~To that end, it is the intent of the Legislature to interpret all existing statutes and processes to give effect to, and to implement, one central registry for recording and distributing support payments in this state.~~

~~4291. As used in this article, the following terms shall have the following meanings:~~

~~(a) “Support order” means a superior court order or an administrative order, as defined in Section 4261.~~

~~(b) “Earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type. Earnings shall specifically include all gain from capital, from labor, or from both combined, not including profit gained through sale or conversion of capital assets.~~

~~(c) “Disposable earnings” means that part of the earnings of an individual remaining after the deduction from those earnings of an amount required by law to be withheld.~~

1 ~~(d) “Employer” means any person or entity who pays~~
2 ~~or owes earnings in employment to the responsible~~
3 ~~parent, including, but not limited to, the United States~~
4 ~~government, or any state or local unit of government.~~

5 ~~(e) “Employee” means a person in employment to~~
6 ~~whom an employer is paying, owes, or anticipates paying~~
7 ~~earnings as a result of services performed.~~

8 ~~(f) “Registry” means the state support registry~~
9 ~~created by Section 4292.~~

10 ~~4292. (a) The state support registry is hereby created~~
11 ~~within the office of support enforcement which is hereby~~
12 ~~created in the department. The state support registry is~~
13 ~~the agency designated in this state to administer the child~~
14 ~~support program under Title IV-D of the federal Social~~
15 ~~Security Act. The registry shall do all of the following:~~

16 ~~(1) Account for and disburse all support payments~~
17 ~~received by the registry.~~

18 ~~(2) Maintain the necessary records, including, but not~~
19 ~~limited to, information on support orders, support debts,~~
20 ~~the date and amount of support due, the date and amount~~
21 ~~of payments, and the names, social security numbers, and~~
22 ~~addresses of the parties.~~

23 ~~(3) Develop procedures for providing information to~~
24 ~~the parties regarding action taken by, and support~~
25 ~~payments collected and distributed by, the registry.~~

26 ~~(b) The office of support enforcement may assess and~~
27 ~~collect interest at the rate of 12 percent per year on~~
28 ~~unpaid child support that has accrued under any support~~
29 ~~order entered into the registry. This interest rate shall not~~
30 ~~apply to those support orders already specifying a~~
31 ~~different interest rate.~~

32 ~~(c) The director shall adopt rules for the maintenance~~
33 ~~and retention of records of support payments and for the~~
34 ~~archiving and destruction of the records when the~~
35 ~~support obligation terminates or is satisfied. When a~~
36 ~~support obligation established under a court order~~
37 ~~entered in a superior court of this state has been satisfied,~~
38 ~~a satisfaction of judgment form shall be prepared by the~~
39 ~~registry and filed with the clerk of the court in which the~~
40 ~~order was entered.~~

~~4292.5. (a) The department shall adopt rules for the distribution of support money collected by the office of support enforcement. These rules shall do all of the following:~~

~~(1) Comply with Section 657 of Title 42 of the United States Code.~~

~~(2) Direct the office of support enforcement to distribute support money within eight days of receipt, unless one of the following circumstances, or similar circumstances specified in the rules, prevents prompt distribution:~~

~~(A) The location of the custodial parent is unknown.~~

~~(B) The support debt is in litigation.~~

~~(C) The office of support enforcement cannot identify the responsible parent or the custodian.~~

~~(3) Provide for proportionate distribution of support payments if the responsible parent owes a support obligation or a support debt for two or more Title IV-D cases.~~

~~(4) Authorize the distribution of support money, except money collected under Section 664 of Title 42 of the United States Code, to satisfy a support debt owed to the IV-D custodian before the debt owed to the state when the custodian stops receiving a public assistance grant.~~

~~(b) The office of support enforcement may distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall do all of the following:~~

~~(1) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent.~~

~~(2) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical~~

1 custodian's statement and a notice which states that
2 support payments will be sent to the physical custodian.

3 (3) File a copy of the notice with the clerk of the court
4 that entered the original support order.

5 (e) If the state support registry distributes a support
6 payment to a person in error, the registry may obtain
7 restitution by means of a set-off against future payments
8 received on behalf of the person receiving the erroneous
9 payment, or may act according to Section 4289.2 as
10 deemed appropriate. Any set-off against future support
11 payments shall be limited to amounts collected on the
12 support debt and 10 percent of amounts collected as
13 current support.

14 4293. (a) Except as provided in subdivision (b), all
15 employers doing business in this state shall report to the
16 state support registry all of the following:

17 (1) The hiring of any person who resides or works in
18 this state to whom the employer anticipates paying
19 earnings.

20 (2) The rehiring or return to work of any employee
21 who was laid off, furloughed, separated, granted a leave
22 without pay, or terminated from employment.

23 (b) Employers are not required to report the hiring of
24 any person who meets any of the following:

25 (1) Will be employed for less than one month's
26 duration.

27 (2) Will be employed sporadically so that the
28 employee will be paid for less than 350 hours during a
29 continuous six month period.

30 (3) Will have gross earnings less than three hundred
31 dollars (\$300) in every month.

32 The director may adopt rules to establish additional
33 exemptions if needed to reduce unnecessary or
34 burdensome reporting.

35 (c) Employers may report by mailing the employee's
36 copy of the W-4 form, or other means authorized by the
37 registry which will result in timely reporting.

38 (d) Employers shall submit a report within 35 days of
39 the hiring, rehiring, or return to work of the employee.
40 The report shall contain all of the following:

1 ~~(1) The employee's name, address, social security~~
2 ~~number, and date of birth.~~

3 ~~(2) The employer's name, address, and employment~~
4 ~~security reference number or unified business identifier~~
5 ~~number.~~

6 ~~(e) An employer who fails to report as required under~~
7 ~~this section shall be given a written warning for the first~~
8 ~~violation and shall be subject to a civil penalty of up to two~~
9 ~~hundred dollars (\$200) per month for each subsequent~~
10 ~~violation after the warning has been given. All violations~~
11 ~~within a single month shall be considered a single~~
12 ~~violation for purposes of assessing the penalty. The~~
13 ~~penalty may be imposed and collected by the office of~~
14 ~~support enforcement under Section 4289.2.~~

15 ~~(f) The registry shall retain the information for a~~
16 ~~particular employee only if the registry is responsible for~~
17 ~~establishing, enforcing, or collecting a support obligation~~
18 ~~or debt of the employee. If the employee does not owe an~~
19 ~~obligation or a debt, the registry shall not create a record~~
20 ~~regarding the employee and the information contained~~
21 ~~in the notice shall be promptly destroyed. Prior to the~~
22 ~~destruction of the notice, the department shall make the~~
23 ~~information contained in the notice available to other~~
24 ~~state agencies, based upon the written request of an~~
25 ~~agency's director or chief executive, specifically for~~
26 ~~comparison with records or information possessed by the~~
27 ~~requesting agency to detect improper or fraudulent~~
28 ~~claims. If, after comparison, no situation is found or~~
29 ~~reasonably suspected to exist, the information shall be~~
30 ~~promptly destroyed by the requesting agency.~~
31 ~~Requesting agencies that obtain information from the~~
32 ~~department under this section shall maintain the~~
33 ~~confidentiality of the information received, except as~~
34 ~~necessary to implement the agencies' responsibilities.~~

35 ~~4293.2. (a) The department shall conduct a study of~~
36 ~~the effectiveness of the reporting program contained in~~
37 ~~Section 4293. The study shall include a cost-benefit~~
38 ~~analysis using accepted accounting practices, control~~
39 ~~group comparisons of responsible parent work history~~
40 ~~and support payment history between industries and~~

1 employers who report and those who do not, statistical
2 detail by standard industrial code to describe (1) the
3 percentage of reports made to the support registry, (2)
4 the percentage of resulting matches with open support
5 enforcement cases, and (3) the level of recovery of
6 delinquent child support, a review of alternative or
7 expedited reporting procedures utilizing new hire data
8 from other public or private sources, control group
9 comparisons regarding the responsible parent work
10 history and support payment history using existing or
11 expedited data sources compared with the employer
12 reporting program, and recommendations as to
13 expansion, termination, or enhancement of the reporting
14 program.

15 (b) The director shall provide necessary data and
16 assistance to conduct the employer reporting program
17 and the study and participate in the review of alternative
18 reporting procedures.

19 (c) The department shall prepare and submit the
20 report to the appropriate committees of the Assembly
21 and the Senate by December 31, 1999.

22 4294. (a) The office of support enforcement shall

23 4290. (a) *The department shall provide support*
24 *enforcement services under the following circumstances:*

25 (1) Whenever public assistance is paid.

26 (2) Whenever a request for nonassistance support
27 enforcement services is received.

28 (3) Whenever a request for support enforcement
29 services is received.

30 (4) When a support order that contains language
31 directing a responsible parent to make support payments
32 ~~to the state support registry under Section 4294.2~~ *is to the*
33 *department under Section 4292* is submitted.

34 (5) When a support order is forwarded to the ~~state~~
35 ~~support registry department~~ by the clerk of a superior
36 court under Section ~~4294.2~~ 4292.

37 (6) When the obligor submits a support order or
38 support payment to the ~~state support registry~~
39 *department or agency designated to receive payments by*
40 *the department.*

(b) ~~The office of support enforcement department~~ shall continue to provide support enforcement services for so long as and under the conditions as the department shall establish by regulation or until the superior court enters an order removing the requirement that the obligor make support payments to the ~~state support registry agency designated to receive payments by the department~~ as provided in Section ~~4294.2~~ 4292.

~~4294.2. (a) If the office of support enforcement is~~

4292. (a) If the department is providing support enforcement services under Section 4294, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation the following:

(1) A provision that orders and directs the responsible parent to make all support payments to the ~~state support registry agency designated to receive payments by the department~~.

(2) A statement that a notice of payroll deduction may be issued, or other income withholding action may be taken, without further notice to the responsible parent at any time after entry of the court order, unless one of the following applies:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due.

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement.

(3) A statement that the receiving parent might be required to submit an accounting of how the support is being spent to benefit the child.

As used in this subdivision and subdivision (c), “good cause not to require immediate income withholding” means a written determination of why implementing immediate wage withholding would not be in the child’s best interests and, in modification cases, proof of timely payment of previously ordered support.

(b) In all other cases not under subdivision (a), the court may order the responsible parent to make payments directly to the person entitled to receive the payments, ~~to the state support registry, or to the agency designated by the department~~ or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(1) The superior court shall include in all orders under this subdivision that establish or modify a support obligation the following:

(A) A statement that a notice of payroll deduction may be issued or other income withholding action may be taken, without further notice to the responsible parent at any time after entry of the court order, unless one of the following applies:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due.

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement.

(B) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child.

As used in this subdivision, “good cause not to require immediate income withholding” is any reason that the court finds appropriate.

(2) The superior court may order immediate or delayed income withholding as follows:

(A) Immediate income withholding may be ordered if the responsible parent has earnings. If immediate income withholding is ordered under this subdivision, all support payments shall be paid to the ~~state support registry~~ *agency designated to receive payments by the department*. The superior court shall issue a mandatory wage assignment order when the support order is signed by the court. The parent entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement.

1 (B) If immediate income withholding is not ordered,
2 the court shall require that income withholding be
3 delayed until a payment is past due. The support order
4 shall contain a statement that a notice of payroll
5 deduction may be issued, or other income-withholding
6 action may be taken, without further notice to the
7 responsible parent, after a payment is past due.

8 (3) If a mandatory wage withholding order is issued
9 under this subdivision and the ~~office of support~~
10 ~~enforcement department~~ provides support enforcement
11 services under Section 4294, the existing wage
12 withholding assignment is prospectively superseded
13 upon the ~~office of support enforcement's department's~~
14 subsequent service of an income withholding notice.

15 (c) The department shall require that all support
16 obligations established as administrative orders include a
17 provision that orders and directs that the responsible
18 parent shall make all support payments to the ~~state~~
19 ~~support registry agency designated to receive payments~~
20 ~~by the department~~. All administrative orders shall also
21 state that a notice of payroll deduction may be issued, or
22 other income withholding action taken without further
23 notice to the responsible parent at any time after entry of
24 the order, unless one of the following applies:

25 (1) One of the parties demonstrates, and the presiding
26 officer finds, that there is good cause not to require
27 immediate income withholding.

28 (2) The parties reach a written agreement that is
29 approved by the presiding officer that provides for an
30 alternate agreement.

31 (d) If the support order does not include the provision
32 ordering and directing that all payments be made to the
33 ~~state support registry agency designated to receive~~
34 ~~payments by the department~~ and a statement that a
35 notice of payroll deduction may be issued if a support
36 payment is past due or at any time after the entry of the
37 order, the ~~office of support enforcement department~~
38 may serve a notice on the responsible parent stating the
39 requirements and authorizations. Service may be by

1 personal service or any form of mail requiring a return
2 receipt.

3 (e) Every support order shall state all of the following:

4 (1) The address where the support payment is to be
5 sent.

6 (2) That a notice of payroll deduction may be issued or
7 other income withholding action may be taken, without
8 further notice to the responsible parent at any time after
9 entry of an order by the court, unless one of the following
10 applies:

11 (A) One of the parties demonstrates, and the court
12 finds, that there is good cause not to require immediate
13 income withholding.

14 (B) The parties reach a written agreement that is
15 approved by the court that provides for an alternate
16 arrangement.

17 (3) The income of the parties, if known, or that their
18 income is unknown and the income upon which the
19 support award is based.

20 (4) The support award as a sum certain amount.

21 (5) The specific day or date on which the support
22 payment is due.

23 (6) The social security number, residence address, and
24 name and address of the employer of the responsible
25 parent.

26 (7) The social security number and residence address
27 of the physical custodian except as provided in
28 subdivision (f).

29 (8) The names, dates of birth, and social security
30 numbers, if any, of the dependent children.

31 (9) In cases requiring payment to the ~~state support~~
32 ~~registry, that the parties are to notify the state support~~
33 ~~registry~~ *agency designated to receive payments by the*
34 *department, that the parties are to notify the department*
35 *or agency of any change in residence address. The*
36 *responsible parent shall notify the* ~~registry~~ *department* ~~of~~
37 ~~the name and address of his or her current employer,~~
38 ~~whether he or she has access to health insurance coverage~~
39 ~~at reasonable cost and, if so, the health insurance policy~~
40 ~~information.~~

1 (10) That any parent owing a duty of child support
2 shall be obligated to provide health insurance coverage
3 for his or her child if coverage that can be extended to
4 cover the child is or becomes available to that parent
5 through employment or is union related.

6 (11) That if proof of health insurance coverage or
7 proof that the coverage is unavailable is not provided
8 within 20 days, the obligee or the department may seek
9 direct enforcement of the coverage through the obligor's
10 employer or union without further notice to the obligor.

11 (12) The reasons for not ordering health insurance
12 coverage if the order fails to require that coverage.

13 (f) The physical custodian's address shall be as follows:

14 (1) When the physical custodian's address is omitted
15 from an order, the order shall state that the custodian's
16 address is known to the ~~office of support enforcement~~
17 *department*.

18 (2) A responsible parent may request the physical
19 custodian's residence address by submission of a request
20 for disclosure under Section 4297 to the ~~office of support~~
21 ~~enforcement~~.

22 ~~(g) The superior court clerk and the department shall,~~
23 ~~within five days of entry, forward to the state support~~
24 ~~registry, a true and correct copy of all superior court~~
25 ~~orders or administrative orders establishing or modifying~~
26 ~~a support obligation which provides that support~~
27 ~~payments shall be made to the support registry. The~~
28 ~~office of support enforcement shall reimburse the clerk~~
29 ~~for the reasonable costs of copying and sending copies of~~
30 ~~court orders to the registry at the reimbursement rate~~
31 ~~department.~~

32 *(g) The superior court clerk shall, within five days of*
33 *entry, forward to the department a true and correct copy*
34 *of all superior court orders establishing or modifying a*
35 *support obligation that provides that support payments*
36 *shall be made to the agency designated by the*
37 *department. The department shall reimburse the clerk*
38 *for the reasonable costs of copying and sending copies of*
39 *court orders to the department at the reimbursement*
40 *rate provided in Title IV-D of the Social Security Act.*

(h) Receipt of a support order by the ~~registry~~ *department* or other action under this section on behalf of a person or persons who have not made a written application for support enforcement services to the ~~office of support enforcement department~~ and who are not recipients of public assistance is deemed to be a request for payment services only.

(i) After the responsible parent has been ordered or notified to make payments to the ~~state support registry~~ *agency designated by the department* under this section, the responsible parent shall be fully responsible for making all payments to ~~the state support registry that~~ *agency* and shall be subject to payroll deduction or other income withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the ~~state support registry~~ *agency designated to receive payments by the department*. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to this section.

4295. (a) The ~~office of support enforcement~~ *department* may issue a notice of payroll deduction as follows:

(1) As authorized by a support order that contains the income withholding notice provisions in Section ~~4294.2~~ 4292 or a substantially similar notice.

(2) After service of a notice containing an income withholding provision under this chapter.

(b) The ~~office of support enforcement~~ *department* shall serve a notice of payroll deduction upon a responsible parent's employer or upon the agency of the state in possession of, or owing any benefits from, the unemployment compensation fund to the responsible parent by personal service or by any form of mail requiring a return receipt.

(c) Service of a notice of payroll deduction upon, an employer or state agency requires the employer or state agency to immediately make a mandatory payroll deduction from the responsible parent's unpaid

1 disposable earnings or unemployment compensation
2 benefits. The employer or state agency shall thereafter
3 deduct each pay period the amount stated in the notice
4 divided by the number of pay periods per month. The
5 payroll deduction for each pay period shall not exceed 50
6 percent of the responsible parent's disposable earnings.

7 (d) A notice of payroll deduction for support shall have
8 priority over any wage assignment, garnishment,
9 attachment, or other legal process.

10 (e) The notice of payroll deduction shall be in writing
11 and include all of the following:

12 (1) The name and social security number of the
13 responsible parent.

14 (2) The amount to be deducted from the responsible
15 parent's disposable earnings each month, or alternate
16 amounts and frequencies as may be necessary to facilitate
17 processing of the payroll deduction.

18 (3) A statement that the total amount withheld shall
19 not exceed 50 percent of the responsible parent's
20 disposable earnings.

21 (4) The address to which the payments are to be
22 mailed or delivered.

23 (f) An informational copy of the notice of payroll
24 deduction shall be mailed to the last known address of the
25 responsible parent by regular mail.

26 (g) An employer or employment security department
27 that receives a notice of payroll deduction shall make
28 immediate deductions from the responsible parent's
29 unpaid disposable earnings and remit proper amounts to
30 the ~~state support registry~~ *agency designated to receive*
31 *payments by the department* on each date the
32 responsible parent is due to be paid.

33 (h) An employer, or the state agency, upon whom a
34 notice of payroll deduction is served, shall make an
35 answer to the ~~office of support enforcement~~ *department*
36 within 20 days after the date of service. The answer shall
37 confirm compliance and institution of the payroll
38 deduction or explain the circumstances if no payroll
39 deduction is in effect. The answer shall also state whether
40 the responsible parent is employed by or receives

1 earnings from the employer or receives unemployment
2 compensation benefits from the state agency, whether
3 the employer or state agency anticipates paying earnings
4 or unemployment compensation benefits and the
5 amount of earnings. If the responsible parent is no longer
6 employed, or receiving earnings from the employer, the
7 answer shall state the present employer's name and
8 address, if known. If the responsible parent is no longer
9 receiving unemployment compensation benefits from
10 the state agency, the answer shall state the present
11 employer's name and address, if known.

12 (i) The employer or state agency may deduct a
13 processing fee from the remainder of the responsible
14 parent's earnings after withholding under the notice of
15 payroll deduction, even if the remainder is exempt. The
16 processing fee may not exceed ten dollars (\$10) for the
17 first disbursement made to the ~~state support registry~~
18 *agency designated by the department*, and one dollar
19 (\$1) for each subsequent disbursement to the ~~registry~~
20 *agency*.

21 (j) The notice of payroll deduction shall remain in
22 effect until released by the ~~office of support enforcement~~
23 *department*, the court enters an order terminating the
24 notice and approving an alternate arrangement under
25 Section ~~4294.2~~ 4292, or one year has expired since the
26 employer has employed the responsible parent or has
27 been in possession of or owing any earnings to the
28 responsible parent or the state agency has been in
29 possession of or owing any unemployment compensation
30 benefits to the responsible parent.

31 4295.2. (a) The employer or the state agency may
32 combine amounts withheld from the earnings of more
33 than one responsible parent in a single payment to the
34 ~~state support registry~~ *agency designated by the*
35 *department*, listing separately the amount of the
36 payment that is attributable to each individual.

37 (b) No employer nor the state agency that complies
38 with a notice of payroll deduction under this article shall
39 be liable to the responsible parent for complying with a
40 notice of payroll deduction under this article.

1 4295.4. No employer shall discipline or discharge an
2 employee or refuse to hire a person by reason of an action
3 authorized in this chapter. If an employer disciplines or
4 discharges an employee or refuses to hire a person in
5 violation of this section, the employee or person shall
6 have a cause of action against the employer. The
7 employer shall be liable for double the amount of lost
8 wages and any other damages suffered as a result of the
9 violation and for costs and reasonable attorney fees, and
10 shall be subject to a civil penalty of not more than two
11 thousand five hundred dollars (\$2,500) for each violation.
12 The employer may also be ordered to hire, rehire, or
13 reinstate the aggrieved individual.

14 4295.6. (a) The employer shall be liable to the ~~state~~
15 ~~support—registry~~ *department* for 100 percent of the
16 amount of the support debt, or the amount of support
17 moneys that should have been withheld from the
18 employee's earnings, whichever is the lesser amount, if
19 the employer does any of the following:

20 (1) Fails or refuses, after being served with a notice of
21 payroll deduction, to deduct and promptly remit from
22 unpaid earnings the amounts of money required in the
23 notice.

24 (2) Fails or refuses to submit an answer to the notice
25 of payroll deduction after being served.

26 (3) Is unwilling to comply with the other
27 requirements of Section 4295.

28 (b) Liability may be established in superior court or
29 may be established pursuant to Section 4289.2. Awards in
30 superior court and in actions pursuant to Section 4289.2
31 shall include costs, interest, and reasonable ~~attorney~~
32 *attorneys'* fees and staff costs as a part of the award. Debts
33 established pursuant to this section may be collected
34 utilizing any of the remedies contained in state law

35 4295.8. (a) The responsible parent subject to a
36 payroll deduction pursuant to this article may file a
37 motion in superior court to quash, modify, or terminate
38 the payroll deduction.

(b) Except as provided in subdivisions (d) and (e), the court may grant relief only upon a showing of the following:

(1) That the payroll deduction causes extreme hardship or substantial injustice.

(2) That the support payment was not past due under the terms of the order when the notice of payroll deduction was served on the employer.

(c) Satisfaction by the obligor of all past due payments subsequent to the issuance of the notice of payroll deduction is not grounds to quash, modify, or terminate the notice of payroll deduction.

(d) If a notice of payroll deduction has been in operation for 12 consecutive months and the obligor's support obligation is current, upon motion of the obligor, the court may order the ~~office of support enforcement~~ department to terminate the payroll deduction, unless the obligee can show good cause as to why the payroll deduction should remain in effect.

(e) Subdivision (b) shall not prevent the court from ordering an alternative arrangement as provided under Section ~~4294.2~~ 4292.

4296. (a) The department may serve a notice of support owed on a responsible parent when a support order does any of the following:

(1) Does not state the current and future support obligation as a fixed dollar amount.

(2) Contains an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation, or both.

(b) The notice of support owed shall facilitate enforcement of the support order and implement and effectuate the terms of the support order, rather than modify those terms. When the ~~office of support enforcement~~ department issues a notice of support owed, the ~~office~~ department shall inform the payee under the support order.

(c) The notice of support owed shall be served on a responsible parent by personal service or any form of mailing requiring a return receipt. The notice of support owed shall contain an initial finding of the fixed dollar amount of current and future support obligation that should be paid or the fixed dollar amount of the support debt owed under the support order, or both.

(d) A responsible parent who objects to the fixed dollar amounts stated in the notice of support owed has 20 days from the date of the service of the notice of support owed to file an application for an adjudicative proceeding or initiate an action in superior court.

(e) The notice of support owed shall state that the responsible parent may do the following:

(1) File an application for an adjudicative proceeding, in which the responsible parent will be required to appear and show cause why the fixed dollar amount of support debt or current and future support obligation, or both, stated in the notice of support owed is incorrect and should not be ordered.

(2) Initiate an action in superior court.

(f) If the responsible parent does not file an application for an adjudicative proceeding or initiate an action in superior court, the fixed dollar amount of current and future support obligation or support debt, or both, stated in the notice of support owed shall become final and subject to collection action.

(g) If an adjudicative proceeding is requested, the department shall mail a copy of the notice of adjudicative proceeding to the payee under the support order at the payee's last known address. A payee who appears for the adjudicative proceeding is entitled to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the adjudicative proceeding, and offering rebuttal to other testimony. Nothing in this section precludes an administrative law judge from limiting participation to preserve the confidentiality of information protected by law.

(h) If the responsible parent does not initiate an action in superior court, and serve notice of the action on the department within the 20-day period, the responsible parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided in state law.

(i) An adjudicative order entered in accordance with this section shall state the basis, rationale, or formula upon which the fixed dollar amounts established in the adjudicative order were based. The fixed dollar amount of current and future support obligation or the amount of the support debt, or both, determined under this section shall be subject to collection under this chapter and other applicable state law.

(j) The department shall also provide for the following:

(1) An annual review of the support order if either the ~~office of support enforcement department~~ or the responsible parent requests a review.

(2) A late adjudicative proceeding if the responsible parent fails to file an application for an adjudicative proceeding in a timely manner under this section.

(k) If an annual review or late adjudicative proceeding is requested under subdivision (j), the department shall mail a copy of the notice of adjudicative proceeding to the payee at the payee's last known address. A payee who appears for the adjudicative proceeding is entitled to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the adjudicative proceeding, and offering rebuttal to other testimony. The administrative law judge may limit participation to preserve the confidentiality of information protected by state law.

4297. (a) Any information or records concerning individuals who owe a support obligation or for whom support enforcement services are being provided ~~which are obtained or maintained by the state support registry~~

~~1 or the office of support enforcement shall be private and~~
~~2 that are obtained or maintained by the department shall~~
~~3 be private and confidential and shall only be subject to~~
~~4 public disclosure as provided in subdivision (b).~~

(b) The director shall adopt rules that specify the
individuals or agencies to whom this information and
these records may be disclosed, the purposes for which
the information may be disclosed, and the procedures to
obtain the information or records. The rules adopted
under this section shall provide for disclosure of the
information and records, under appropriate
circumstances, which shall include, but not be limited to,
the following:

(1) When authorized or required by federal statute or
regulation governing the support enforcement program.

(2) To the person the subject of the records or
information, unless the information is exempt from
disclosure.

(3) To government agencies, whether state, local, or
federal, and including federally recognized tribes, law
enforcement agencies, prosecuting agencies, and the
executive branch, if the disclosure is necessary for child
support enforcement purposes.

(4) To the parties in a judicial or adjudicative
proceeding upon a specific written finding by the
presiding officer that the need for the information
outweighs any reason for maintaining the privacy and
confidentiality of the information or records.

(5) To private persons, federally recognized tribes, or
organizations if the disclosure is necessary to permit
private contracting parties to assist in the management
and operation of the department.

(6) Disclosure of address and employment
information to the parties to an action for purposes
relating to a child support order.

(7) Disclosure of information or records when
necessary to the efficient administration of the support
enforcement program or to the performance of functions
and responsibilities of the ~~support registry and the office~~

1 ~~of support enforcement~~ *department* as set forth in state
2 and federal statutes.

3 (8) Disclosure of the information or records when
4 authorized under other state laws.

5 (c) Prior to disclosing the physical custodian's address
6 under this section, a notice shall be mailed, if appropriate
7 under the circumstances, to the physical custodian at the
8 physical custodian's last known address. The notice shall
9 advise the physical custodian that a request for disclosure
10 has been made and will be complied with unless the
11 department receives a copy of a court order that enjoins
12 the disclosure of the information or restricts or limits the
13 requesting party's right to contact or visit the physical
14 custodian or the child, or the custodial parent requests a
15 hearing to contest the disclosure. The administrative law
16 judge shall determine whether the address of the
17 custodial parent should be disclosed based on the same
18 standard as a claim of "good cause" as defined in Section
19 602(a)(26)(c) of Title 42 of the United States Code.

20 (d) Nothing in this section shall be construed to
21 prevent the disclosure of information and records if all
22 details identifying an individual are deleted or the
23 individual consents to the disclosure.

24 (e) It shall be unlawful for any person or agency in
25 violation of this section to solicit, publish, disclose,
26 receive, make use of, or to authorize, knowingly permit,
27 participate in or acquiesce in, the use of any lists of names
28 for commercial or political purposes or the use of any
29 information for purposes other than the purposes
30 specified in this section. A violation of this section shall be
31 a misdemeanor.

32 4298. The department shall be given 20 calendar days
33 prior notice of the entry of any final order and five days
34 prior notice of the entry of any temporary order in any
35 proceeding involving child support or maintenance if the
36 department has a financial interest based on an
37 assignment of support rights or the state has a subrogated
38 interest. Service of this notice upon the department shall
39 be by personal service on, or mailing by any form of mail
40 requiring a return receipt to, the office of the Attorney

1 General. The department shall not be entitled to terms
2 for a party's failure to serve the department within the
3 time requirements for this section, unless the department
4 proves that the party knew that the department had an
5 assignment of support rights or a subrogated interest and
6 that the failure to serve the department was intentional.

7 SEC. 2. No reimbursement is required by this act
8 pursuant to Section 6 of Article XIII B of the California
9 Constitution because the only costs that may be incurred
10 by a local agency or school district will be incurred
11 because this act creates a new crime or infraction,
12 eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section
14 17556 of the Government Code, or changes the definition
15 of a crime within the meaning of Section 6 of Article
16 XIII B of the California Constitution.

